



WEB COPY



Crl.O.P.Nos.25598 & 25600 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.Nos.25598 & 25600 of 2023

S.Amar Prasad @ Amar Prasad Reddy

.. Petitioner/A1 in Crl.O.P.No.25598 of 2023

1.Bala N Vinoth
2.K.Surendra Kumar
3.P.Senthil Kumar
4.S.Kanniyappan
5.S.Balakumar

.. Petitioners/A2 to A6 in Crl.O.P.No.25600 of 2023

Vs.

State Rep.by
The Inspector of Police,
Kanathur Police Station,
Palikaranai.

... Respondent in both Crl.O.Ps

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
prayed to enlarge the petitioners on bail pending investigation in Crime
No.164 of 2023 on the file of the Respondent Police.



WEB COPY



CrI.O.P.Nos.25598 & 25600 of 2023

For Petitioners : Mr.R.C.Paul Kanagaraj
For Mr.D.Alexissudhakar
For Respondent : Mr.R.Muniyapparaj, APP.,
Assisted by Mr.M.Sylvestor John

ORDER

The petitioners who were arrested and remanded to judicial custody on 21.10.2023 for the offence punishable under Sections 147, 341, 294(b), 353 and 506(i) of IPC and Section 3(1) of the Prevention of Damage to Public Property Act, 1992 in Crime No.164 of 2023 on the file of the respondent police, seek bail.

2.This is a story of a 55 feet tall flag pole, which ended with a police lathi in the hands of the respondent. Of all the heights, the petitioners wanted to erect a 55 feet tall flag pole just in front of the house of the leader of the party to which the petitioners owe allegiance and naturally, the respondent had objected to it. They were worried with the ground which was dug in a public place / platform. For a 55 feet tall flag pole, any common person would know that the depth should go beyond 5 feet in the bottom. It will cut across the underground electric cables. It will cut across the drainage and sewerage pipe line and for all we know, if the respondent had



Crl.O.P.Nos.25598 & 25600 of 2023

permitted the pole to remain, it would have damaged the sewerage pipe line, which sewerage would have flowed back to the house of the very person in whose front portion the pole was erected. Actually the petitioner should be grateful to the respondent for ensuring that the pole was removed. The pole has been removed as on date. But before such removal, an altercation had taken place. The respondent had brought in, what the learned counsel for the petitioners state is a crane and what the learned Additional Public Prosecutor states is a JCB machine. The petitioners herein for good measure are alleged to have broken the wind shield of that machine.

3.I am not able to understand the sense and sensibility of the entire issue. A pole of about 10 feet would be more visible to any common person. If it is a pole of 55 feet, nobody can see to that height. It would actually be to the disadvantage of the persons who erect such a tall flag post.

4.Be that as it may, as in all such cases, the entire issue flared up and the learned Additional Public Prosecutor complains that specifically permission was denied when an application was made to erect the pole on 15.02.2023 and permission was denied on 16.02.2023 and the two applicants



Crl.O.P.Nos.25598 & 25600 of 2023

namely, Munusamy and Diwakar had given an undertaking that they would not put up the said pole. It is the grievance raised by the learned Additional Public Prosecutor that in violation of that particular undertaking and more importantly in violation of rules and regulations preventing any pole from being put up in a public place without due permission, an iron pole of 55 feet was put up.

5.It is only natural that the respondent on a complaint being received about the said fact, had taken steps to remove the pole. The petitioners should not have engaged in an altercation over that aspect. But at any rate, expression of views is a part of the democratic set up and views would turn into words and words would turn out to altercation and altercation would turn out to assault and assault will damage whatever property is available nearby and the only property nearby was a JCB machine, which belonged to an unfortunate person who had hired it out to the respondent and today had suffered loss, since the wind shield had been broken.



Crl.O.P.Nos.25598 & 25600 of 2023

WEB COPY

6.The loss had not been assessed, but let me put it tentatively at a value at Rs.12,000/-, which would mean that Rs.2,000/- has to be deposited by each one of the petitioner to the credit of Crime No.164 of 2023 before the learned Judicial Magistrate No.II, Alandur, and the learned Judicial Magistrate No-II, Alandur, may handover that amount to the person who hired out the JCB. The said person should be identified by the respondent.

7.The learned Additional Public Prosecutor states that investigation has not yet been done and there is always a possibility of witnesses being tampered. But the primary witnesses would be the defacto complainant who is the Assistant Executive Officer of Greater Chennai Corporation and others would be the person who hired out the JCB machine, and the official witnesses. There may also be some private witnesses who had witnessed the entire incident.

8.The entire issue will have to be decided only at the time of trial and any observation in the course of this order is limited for the purpose of coming to the conclusion so far as these petitions are concerned and certainly not with respect to the final outcome of trial, which of course would have to



Crl.O.P.Nos.25598 & 25600 of 2023

be considered on the basis of the records produced during the course of trial.

WEB COPY

9.I am confident that the respondent would be able to marshal the evidence in their proper form.

10.The petitioners are to give an undertaking that they would not put up a pole without proper permission from the appropriate authorities. The appropriate authorities may also examine any application filed not with respect to applicant themselves, but ensure that parity is maintained in all applications from all sources, who so apply for permission to put up poles. When the applications are rejected and a message is sent out that it had been so rejected on biased grounds, all these incidents will happen.

11.Let the officials who are responsible for considering these applications keep an open mind and examine them on a case to case basis and not on general basis.

12.Taking into consideration the facts and circumstance of the case and the period of incarceration from 21.10.2023, I would grant bail to the



Crl.O.P.Nos.25598 & 25600 of 2023

petitioners provided (i) the petitioners shall deposit the amount as aforesaid, within three days from which the petitioners are released; (ii) the petitioners shall give an undertaking as aforesaid,; The affidavit should be filed within a period of three days from the date on which the petitioners are released and furnishing security and if they do not, the respondent is at liberty to apply for cancellation of bail before this Court.

13. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate – II, Alandur and on further conditions that :-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b]the petitioners shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioners shall not abscond either during investigation or trial.



WEB COPY



Crl.O.P.Nos.25598 & 25600 of 2023

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

10.11.2023

Smv

To

1. The Judicial Magistrate – II, Alandur.
2. The Inspector of Police,
Kanathur Police Station,
Palikaranai.
3. The Central Prison II, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.Nos.25598 & 25600 of 2023

C.V.KARTHIKEYAN, J.

smv

Crl.O.P.No.25598 & 25600 of 2023



WEB COPY



Crl.O.P.Nos.25598 & 25600 of 2023

10.11.2023